

### **REMARKS**

Applicant respectfully requests reconsideration and allowance of the subject application. Claims 1-45 are presently pending, of which claims 1, 2, 4, 5, 7, 10, 11, 16, 23, 24, 26, 29, 32-35, 38, 39, and 42 have been amended. The amendments to claims 1, 2, 4, 5, 7, 10, 11, 16, 23, 24, 26, 29, 32-35, 38, 39, and 42 are simply to provide clarification and/or to correct informalities noted by the Applicant, and are not to overcome prior art or any other objections.

### **Statement of Substance of Interview**

An interview was conducted between, the undersigned representative for the Applicant and the Examiner on June 26, 2008. Applicant greatly appreciates the Examiner's willingness to talk. Such willingness is invaluable to our common goal of an expedited prosecution of this patent application.

During the interview, it was discussed how the claims differed from the cited references, namely Swain, Pihonenen and Lindqvist. Without conceding the propriety of the rejections and in the interest of expediting prosecution, several possible clarifying amendments were proposed.

The Examiner was receptive to the proposals, specifically the clarification regarding using storage medium, reference a quality and time in the claims. However, the Examiner indicated that she/he would need to review the cited art more carefully and/or do another search, and requested that the proposed amendments be presented in writing.

Applicant herein amends the claims in the manner discussed during the interview. Accordingly, Applicant submits that the pending claims are allowable over the cited art of record for at least the reasons discussed during the interview.

## **SUBSTANTIVE MATTERS**

### **35 U.S.C. §101 Claim Rejections**

Claims 32-34 are rejected under 35 U.S.C. § 101 for failing to direct the claim toward statutory subject matter. Specifically the examiner alleges these claims are drawn to modulated data signals which are a form of energy. Applicant respectfully traverses this rejection. Applicant has amended these claims to recite “computer readable storage media” which applicant submits constitutes a tangible physical article or object. In light of the amendments presented herein, Applicant respectfully submits that these claims comply with the patentability requirements of 35 U.S.C. §101 and that the rejections under 35 U.S.C. §101 should be withdrawn.

If the Examiner maintains the rejection of these claims, then Applicant requests additional guidance as to what is necessary to overcome the rejection.

### **35 U.S.C. §102 Claim Rejections**

Claims 1, 4, 7-10, 13-15, 26-27, 32 and 34 are rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Publication No. 2001/0047516 to Swain et al. (hereinafter, “Swain”) (*Office Action* p.3). For at least the reasons set forth below, the Examiner has not shown that the cited reference anticipates the rejected claims.

Accordingly, Applicant respectfully requests that the rejections under 35 U.S.C. §102 be withdrawn and the case be passed along to issuance.

### **Anticipation Rejections**

Applicant submits that the anticipation rejections are not valid because, for each rejected claim, no single reference discloses each and every element of that rejected claim.<sup>1</sup> Furthermore, the elements disclosed in the single reference are not arranged in the manner recited by each rejected claim.<sup>2</sup>

#### **Based upon Swain**

The Examiner rejects claims 1, 4, 7-10, 13-15, 26-27, 32 and 34 under 35 U.S.C. § 102(b) as being anticipated by Swain. Applicant respectfully traverses the rejection of these claims. Based on the reasons given below, Applicant asks the Examiner to withdraw the rejection of these claims.

#### **Amended Independent Claims 1, 26 and 32**

Applicant submits that Swain does not anticipate amended claim 1 because it does not disclose the following elements as recited in this claim (with emphasis added):

- “receiving with the computer information from a user about a multimedia content in a stream generated by a content server in a computer network,”

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<sup>1</sup> “A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.” *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987); also see MPEP §2131.

<sup>2</sup> See *In re Bond*, 910 F.2d 831, 15 USPQ2d 1566 (Fed. Cir. 1990).

- “**specifying** with the computer to the content server via the computer network **a quality of the stream;**”
- “**receiving** with the computer the multimedia content in the stream from the content server at the designated URL **with the specified quality;**”

Applicant submits that Swain does not anticipate amended claim 26 because it does not disclose the following elements as recited in this claim (with emphasis added):

- “**an input device** comprising a keyboard, a pointing device, a microphone, a joystick, a game pad, a scanner, a touch screen, a touch pad, a mouse or a key pad;”
- **a output device** comprising a monitor, a screen, a speaker or a printer,;
- “**means for feeding** the saved **multimedia content to the output device**”

Applicant submits that Swain does not anticipate amended claim 32 because it does not disclose the following elements as recited in this claim (with emphasis added):

- “**determine on a user computer information about a multimedia content** in a stream provided from a content server to the user computer via a computer network, wherein the determined information includes a specified time frame associated with the stream and uniform resource locator (URL) associated with a network location of the content server, wherein the URL is obtained from a user through a user interface;”
- “**save the received multimedia content** in a storage device **on the user computer** during the specified time frame”

The Examiner indicates (Office Action April 30, 2008 p. 3) the following with regard to these claims:

“Regarding claims 1, 26 and 32, Swain discloses receiving information from a user about a broadcast multimedia content stream generated by a content server in a computer network [paragraph 15, user interface enables user to form a request, figures 2-3], wherein the received information includes:

a specified time frame associated with the multimedia content stream [paragraph 15, the request includes date, time and network location and paragraphs 25-26]; and

a designated uniform resource locator (URL) of the content server [paragraph 15, the request includes date, time and network location and paragraphs 25-26];

scheduling a recording of the multimedia content stream at the designated URL at the specified time [paragraphs 15 and 25-26];

receiving the multimedia content stream from the content server at the designated URL [paragraph 13]; and

saving the multimedia content stream in a system memory during the specified time frame [paragraphs 13, 16 and 37].”

However, Applicant respectfully submits that Swain does not disclose feature(s) recited in amended claims 1, 26 and 32. For example, Swain does not disclose “receiving with the computer information from the user”, “specifying... a quality of the stream” or “receiving ... the multimedia content... with the specified quality” as recited in amended claim 1. Swain also does not disclose “an input device”, “an output device”, and “feeding the saved multimedia content to the output device” as recited in amended claim 26. Rather, Swain receives and records content on a server and then feeds content to the client device. Applicant claims an electronic device with “an input device comprising a keyboard, a pointing device, a microphone, a joystick, a game pad, a scanner, a touch screen, a touch pad, a mouse or a key pad,” and “a output device comprising a monitor, a screen, a speaker or a printer;...” Further, Swain does not disclose “determining

on the user computing information about the multimedia content in a stream” or save the received multimedia content ... on the user computer during the ... time frame,” as recited in claim 32. Swain saves information on a server and not on a client computer.

Consequently, Swain does not disclose all of the elements and features of these claims. Accordingly, amended claims 1, 26 and 32 are allowable over Swain, and Applicant respectfully requests that the rejection under 35 U.S.C. §102 be withdrawn.

**Dependent Claims 4, 7-10, 12-15, 27 and 33-34**

Dependent Claims 4, 7 – 15, 27 and 33-34 are allowable by virtue of their dependency upon amended claims 1, 26 and 32 (either directly or indirectly). It is axiomatic that any dependent claim which depends from an allowable base claim is also allowable. Accordingly, applicant requests that the rejection under 35 U.S.C. §102 be withdrawn.

**35 U.S.C. §103 Claim Rejections**

**A.** Claims 11-12, 16-19, 22-25, 29-31 are rejected under 35 U.S.C. §103(a) for being unpatentable over Swain, in view of U.S. Publication No. 2004/0028062, to Pirhonen et al. (hereinafter, “Pirhonen”) (*Office Action* April 30, 2008 p.6).

**B.** Claims 2-3, 28, 33, 35, 37-38 and 40-45 are rejected under 35 U.S.C. §103(a) for being unpatentable over Swain, in view of U.S. Publication No. 2003/0088778, to Lindqvist et al. (hereinafter, “Lindqvist”) (*Office Action* April 30, 2008 p.8).

C. Claim 5 is rejected under 35 U.S.C. §103(a) for being unpatentable over Swain, in view of U.S. Publication No. 2002/0035610, to Gile et al. (hereinafter, "Gile") (*Office Action* April 30, 2008 p.11).

D. Claim 6 is rejected under 35 U.S.C. §103(a) for being unpatentable over Swain-Gile, in view of U.S. Publication No. 2006/0031557, to Walsh et al. (hereinafter, "Walsh") (*Office Action* April 30, 2008 p.12).

D. Claim 36 is rejected under 35 U.S.C. §103(a) for being unpatentable over Swain- Lindqvist, in view of Gile (*Office Action* April 30, 2008 p.13).

E. Claim 20 is rejected under 35 U.S.C. §103(a) for being unpatentable over Swain- Pirhonen, in view of Gile (*Office Action* April 30, 2008 p.13).

F. Claim 21 is rejected under 35 U.S.C. §103(a) for being unpatentable over Pirhonen-Gile, in view of Walsh (*Office Action* April 30, 2008 p.14).

G. Claim 39 is rejected under 35 U.S.C. §103(a) for being unpatentable over Swain-Lindqvist, in view of Pirhonen (*Office Action* April 30, 2008 p.14).

For the reasons set forth below, the Examiner has not shown that the cited references anticipate the rejected claims. Accordingly, Applicant respectfully requests that the §103 rejections be withdrawn and the case be passed along to issuance.

## **Obviousness Rejections**

### **Lack of *Prima Facie* Case of Obviousness (MPEP § 2142)**

Applicant disagrees with the Examiner's obviousness rejections. Arguments presented herein point to various aspects of the record to demonstrate that all of the criteria set forth for making a *prima facie* case have not been met.

### **Based upon Swain and Pirhonen**

The Examiner rejects claims 11-12, 16-19, 22-25, 29-31 under 35 U.S.C. §103(a) as being unpatentable over the combination of Swain and Pirhonen. Applicant respectfully traverses the rejection of these claims and requests the Examiner withdraw the rejection of these claims.

### **Amended Independent Claim 16**

Applicant submits that the combination of Swain and Pirhonen does not render this claim obvious because it does not teach or suggest the following elements as recited in this claim (with emphasis added):

- “recording the multimedia content in the stream with the scheduled recording task **based on the specified quality of the multimedia content and specified time frame;**”



### Amended Independent Claim 29

Applicant submits that the combination of Swain and Pirhonen does not render this claim obvious because it does not teach or suggest the following elements as recited in this claim (with emphasis added):

- “means for **receiving the broadcast multimedia content in the stream fed from a content server** via a network, wherein the network includes a bandwidth;
- “means for **rescheduling the recording if the network bandwidth does not permit recording** of the multimedia content in the stream **at the specified quality;**”

The Examiner indicates (*Office Action* April 30, 2008, p. 6-7) the following with regard to claims 16 and 29:

“Regarding claims 16 and 29, Swain-Pirhonen further discloses enabling a user to schedule a recording of a broadcast multimedia content stream at a specified time frame and at a designated uniform resource locator (URL) [Swain, paragraphs 15 and 25-26 and figures 2-3];

creating a scheduled recording task that includes information about the recording of the multimedia content stream, wherein the information about the recording includes specifying a quality of the stream in relation to a bandwidth associated with a network connection [Pirhonen, paragraph 26, lines 4-8];

sending the scheduled recording task to a recording service configured to perform the scheduled recording task [Swain, paragraph 13]; and

tracking the scheduled recording task, whereby the tracked scheduled recording task facilitates an output to the user [Swain, paragraph 40]”

Swain and/or Pirhonen fail to teach or suggest, alone or in combination, each and every element and feature as recited in amended claims 16 and 29. For example, Swain and/or Pirhonen do not teach or suggest “recording the multimedia content in the stream with the scheduled recording task based on the specified quality of the multimedia content and specified time frame;” as recited in claim 16, or “rescheduling the recording if the network bandwidth does not permit recording of the multimedia content in the stream at the specified quality” as recited in claim 29. Swain describes recording multimedia content. However, Swain does not describe recording the content based on the quality of the content, as recited in amended claims 16 and 29. Pirhonen does not correct the deficiencies of Swain. Pirhonen describes setting a bandwidth of a stream be delivered from a gateway, but does not describe scheduling a recording based on a quality of a multimedia content as recited in claims 16 and 29.

Accordingly, amended claims 16 and 29 are allowable over the Swain-Pirhonen combination for at least the reasons described above, and Applicant respectfully requests that the §103 rejection be withdrawn.

**Dependent Claims 17-25 and 30-31** are allowable by virtue of their dependency upon claims 16 and 29 (either directly or indirectly). Accordingly, the §103 rejection should be withdrawn. Accordingly, applicant requests that the rejection under 35 U.S.C. §103 be withdrawn.

**Dependent Claims 11-12** are allowable by virtue of their dependency upon claim 1 which is allowable over Swain for at least the reasons described above in response to the §102 rejection of claim 1. Claims 11-12 are also allowable over the Swain - Pirhonen combination because Swain and/or Pirhonen do not address the deficiencies of 1 as described above in the response to the rejection of claim 1. Additionally, claim 11 is allowable over Swain in view of Pirhonen for independent reasons. For example:

**Claim 11** recites:

The computer-implemented method as recited in Claim 1, wherein the received information includes a specified quality of the content; and wherein quality of the stream is specified with the computer to the content server based on the specified quality of the content.

Swain describes recording multimedia content. Swain does not disclose specifying the quality of the stream with the computer to the content server or receiving the content based on the quality of the content, as recited in claims 11. The Pirhonen does not correct the deficiencies of Swain. Pirhonen describes setting a bandwidth of a stream be delivered from a gateway, but does not describe specifying and receiving content from a server based on a quality of a multimedia content as recited in claim 11. Accordingly, applicant submits that amended claim 11 is allowable over Swain, in view of Pirhonen and requests that the rejection under 35 U.S.C. §103 be withdrawn.

**Based upon Swain and Lindqvist**

The Examiner rejects claims 2-3, 28, 33, 35, 37-38 and 40-45 under 35 U.S.C. §103(a) as being unpatentable over the combination of Swain and

Lindqvist. Applicant respectfully traverses the rejection of these claims and requests the Examiner to withdraw the rejection of these claims.

**Amended Independent Claim 35**

Applicant submits that of Swain and Lindqvist either alone or in combination do not render amended claim 35 obvious because they do not teach or suggest the following elements as recited in this claim (with emphasis added):

- “schedule a recording of the multimedia content in the stream at a specified time **based on a time provided by a user**”
- “establish a connection between the schedule recording service and the network location of the multimedia content using the network interface, **wherein the network location is based on a manually entered URL provided by a user**”

The Examiner indicates (*Office Action* April 30, 2008 p. 9-10) the following with regard to this claim:

[Regarding claim 35, Swain-Lindqvist further discloses a network interface configured to connect to a computer network [Swain, paragraph 17]; and a memory [Swain, paragraph 17] that includes;

a scheduled recording service configured to receive a scheduled recording task that includes information about a multimedia content stream provided by a device in the computer network [Swain, paragraphs 15 and 25-26 and figures 2-3], schedule a recording of the multimedia content stream at a specified time [Swain, paragraphs 15 and 25-26 and figures 2-3], receive the multimedia content stream from the device [Swain, paragraph 13], and save the multimedia content stream in the memory [Swain, paragraphs 13, 16 and 37], including encrypting the multimedia

content stream using a digital rights management (DRM) system [Lindqvist, paragraph 77]; and

a connection manager configured to receive a network location of the multimedia content stream [Swain, paragraphs 15 and 25-26], and establish a connection between the schedule recording service and the multimedia content using the network interface [Swain, paragraphs 15 and 25-26]

Swain and/or Pirhonen either alone or in combination fail to teach or suggest each and every element and feature as recited in amended claim 35. For example, Swain and/or Lindqvist do not teach or suggest “schedule a recording of the multimedia content in the stream at a specified time based on a time provided by a user”, or including a “network location ... based on a manually entered URL provided by a user” as recited in claim 35. Swain describes recording content at a later time on a server where the content is receive from a web site previously visited by a user. However, Swain does not describe setting the recording time based a user manually entered URL or a specific time set by the user” as recited in amended claim 35. Lindqvist does not correct the deficiencies of Swain. Lindqvist describes setting DRM rights for content in memory, but does not describe recording content at a later time on a server based on a manually entered URL provided by a user as recited in claim 35.

Accordingly, amended claim 35 is allowable over the Swain- Lindqvist combination for at least the reasons described above, and Applicant respectfully requests that the §103 rejection be withdrawn.

**Dependent Claims 36-45** are allowable by virtue of their dependency upon claim 35 (either directly or indirectly). Accordingly, applicant submits that the rejection under 35 U.S.C. §103 should be withdrawn.

**Dependent Claims 2-3, 5, 6, 28 and 33** are allowable by virtue of their dependency upon claims 1, 26, and 32 which is allowable over Swain for at least the reasons described above in response to the rejection under 35 U.S.C. §102 of claims 1, 26 and 32. Claims 2-3, 5, 6, and 33 are also allowable over the Swain - Lindqvist combination because Swain and/or Lindqvist do not address the deficiencies as described above in the response to the rejection of claims 1, 26 and 32.

**Conclusion**

Pending claims 1-45 are in condition for allowance and Applicant respectfully requests issuance of the subject application. If any issues remain that prevent issuance of this application, the **Examiner is urged to contact me before issuing a subsequent Action.** If any issues remain that preclude issuance of the application, the Examiner is urged to contact the undersigned attorney before issuing a subsequent Action.

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Respectfully Submitted,

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